

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201



DAN EARNETT
CHIEF OF STAFF

Phone: (803) 737-0800
Fax: (803) 737-0801

jnelson@regstaff.sc.gov

Jeffrey M. Nelson
Counsel for ORS

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Charles L. A. Terreni, Esq.
Clerk and Chief Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210

Re: Proposed Amendments to Commission Regulations Regarding Charter Buses and Limousines
Docket No. 2009-16-T

Dear Mr. Terreni,

On January 9, 2009 the Public Service Commission of South Carolina ("the Commission") filed a Notice of Drafting regarding the Commission's proposed revisions to Commission Regulations regarding Charter Buses and Limousines. At that time, the Commission established March 9, 2009 as the deadline for public comments to be submitted to the Commission in this matter. We are appreciative of the opportunity to provide comments and to participate in the continued development of these regulations.

The South Carolina Office of Regulatory Staff ("ORS") requests that the Commission amend certain regulations to clarify and expand the definitions of "Limousine" and "Charter Bus" currently contained in 26 S.C. Code Regs. 103-102.

ORS has recently encountered certificated limousine operators who appear to be operating vehicles which exceed the passenger seating limitations for such vehicles as provided in Reg. 103-102(22) and may therefore need to meet the additional insurance limit requirements established for passenger carriers of "16 or More Passengers" under Reg. 103-172 as well as other regulations applicable to Charter Buses. Specifically, insurance limits for passenger carriers of "8 to 15 Passengers" must provide comprehensive liability coverage of \$100,000 whereas the limit for carriers of "16 or More Passengers" is \$300,000 of comprehensive liability.

Regulations 103-102(20) and (22), which define the terms “Limousine” and “Charter Bus,” contain conflicting language which has allowed passenger carrier vehicles which should be classified and certificated as “Charter Buses” to operate as “Limousines” with corresponding insurance limits below those envisioned and intended by Reg. 103-172. The term “Limousine” is defined by the PSC regulation 103-102(22) as “a passenger carrier utilizing luxury vehicles and/or vans **equipped to carry** up to fifteen (15) passengers. A ‘Limousine’ includes sport utility vehicles and town cars.” “Charter Bus” is defined by Regulation 103-102(20) as “A motor vehicle **carrying** 16 or more passengers. However, a limousine shall not be considered a charter bus.”

The use of different standards or measurements within the definitions gives rise to confusing and conflicting terms in the above referenced Regulations. First, the definition of Limousine provides that a determination of seating capacity is based on the number of passengers (up to fifteen) that a vehicle is “equipped to carry” whereas the definition of a Charter Bus is restricted to vehicles “carrying” sixteen or more passengers. The definitions should both provide that the categorization of a vehicle should be based on what that vehicle is **equipped to carry**, and not the number of passengers that it is actually physically carrying at any one time. Second, the definition of Charter Bus provides that “However, a limousine shall not be considered a charter bus.” ORS does not understand what purpose this provision serves as it appears to only further complicate the delineation between a limousine and a charter bus.

Finally, there is no guidance provided in the Regulations regarding whether the driver/operator (or driver’s seat) of a passenger carrier is to be included or excluded from the computation of passenger capacity. While it would seem practical to exclude the driver/operator’s seat from a computation of passenger capacity, federal guidelines specifically include the operator’s position in their computation. Further confusion regarding seating capacity exists due to the fact that there are no guidelines, definitions, or explanation contained in the regulations to instruct ORS or certificated carriers on the method for calculating passenger seating capacity. Disputes and disagreements have arisen in attempting enforcement of certification of limousines and charter buses as a result of conflicting methods of “counting” seating capacity; i.e. width of bench seats versus number of seat belts versus number of locations for seat belts. ORS would therefore encourage the PSC to consider clarification of whether the driver’s/operator’s position is included in the computation of passengers and how seating capacity should be determined.

Based on the above stated issues, ORS respectfully requests the Commission issue Regulations rewriting Regulation 103-102 as follows:

26 S.C. Code Regs. 103-102(20) and (22)(Supp. 2007) as currently written:

20. Charter Bus. “Charter Bus” means a motor vehicle carrying 16 or more passengers. However, a limousine shall not be considered to be a charter bus.

22. Limousine. A “Limousine” is a passenger carrier utilizing luxury vehicles and/or vans equipped to carry up to fifteen (15) passengers. A “Limousine” includes sport utility vehicles and town cars.

ORS proposed amendment to 103-102(20) to reconcile the language between the definition of a limousine and a charter bus:

20. Charter Bus. "Charter Bus" is a passenger carrier equipped to carry sixteen (16) or more passengers.

Clarification of Equipped to Carry

ORS proposes adding the following new definitions to 26 S.C. Code Regs. 103-102 to clarify the phrases "equipped to carry" and "passenger" as stated in the limousine and charter bus definitions:

27. Equipped to Carry. "Equipped to carry" means the number of passengers a vehicle is capable of carrying based on the number of seatbelts in that vehicle. If seatbelts do not exist in the vehicle or cannot be located by ORS Inspectors, ORS may alternatively calculate the number of passengers a vehicle is capable of carrying by utilizing the method set forth in the Federal Transportation Regulations to determine "seating capacity" pursuant to 49 C.F.R. *Glossary of Terms* (2008). Efforts to circumvent regulation or proper licensing by removing or altering the number of seatbelts in a vehicle and/or otherwise altering the seating configuration will not absolve the carrier from failing to obtain the proper certificate from the Commission or appropriate insurance coverage.

28. Passenger. "Passenger" means every person carried or riding in a motor carrier including the driver.

ORS respectfully submits that the threat to the public's safety and welfare through the operation of vehicles as Limousines, which should be certificated and insured as Charter Buses, warrants the Commission's adoption and submission of the above recommended changes

ORS greatly appreciates the opportunity to provide these comments to the Commission and looks forward to additional opportunities to participate in the Commission's efforts to further improve its regulations.

Yours Truly,



Jeffrey M. Nelson

JMN/pjm